The meeting convened via teleconference at 11:30 a.m., Gerald A. Reynolds, Chairman, presiding.

PRESENT:

GERRY REYNOLDS, CHAIRMAN
GAIL L. HERIOT, COMMISSIONER
PETER N. KIRSANOW, COMMISSIONER
ARLAN D. MELENDEZ, COMMISSIONER
ASHLEY L. TAYLOR, JR., COMMISSIONER
MICHAEL YAKI, COMMISSIONER
TODD F. GAZIANO, COMMISSIONER

MARTIN DANNENFELSER, Staff Director
STAFF PRESENT:

DAVID BLACKWOOD, General Counsel
CHRISTOPHER BYRNES
DEMITRIA DEAS
PAMELA A. DUNSTON, Chief, ASCD
MAHA JWEIED
PETER MINARIK
EMMA MONRIIG, Solicitor
AUDREY WRIGHT

COMMISSIONER ASSISTANTS PRESENT:

TIM FAY
DOMINIQUE LUDVIGSON
RICHARD SCHMECHEL
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(11:47:01 a.m.)

OPERATOR: Good morning. My name is Stephen, and I'll be your conference operator today. At this time, I'd like to welcome everyone to the conference call. All lines have been placed on mute to prevent any background noise. If you need assistance during the call, please press Star, and then zero, and the operator will come back on the line to assist you. Thank you.

Mr. Reynolds, you may begin your conference.

CHAIRMAN REYNOLDS: Okay. Good morning. This is Jerry Reynolds. It is 11:46 Eastern Standard Time on September 3rd, 2009. This is a telephonic meeting of the U.S. Commission on Civil Rights, with Commissioners participating from different locations. I will call the name of each Commissioner to determine if there is a quorum to hold a meeting. Vice Chair Thernstrom, Commissioner Kirsanow.

COMMISSIONER KIRSANOW: Here.

COMMISSIONER TAYLOR: Here.

CHAIRMAN REYNOLDS: Commissioner

Heriot.

COMMISSIONER HERIOT: Here.

CHAIRMAN REYNOLDS: Commissioner

Gaziano.

COMMISSIONER GAZIANO: Here.

CHAIRMAN REYNOLDS: Okay, we have a quorum. Is the Staff Director present?

STAFF DIRECTOR DANNEFELSER: Present.

CHAIRMAN REYNOLDS: Is the court reporter on the line?

COURT REPORTER: I am.

CHAIRMAN REYNOLDS: Very good. Well, the meeting will come to order. If a Commissioner wishes to make a statement, or if he or she -- he or she should identify themselves first. Whenever it's necessary to take a vote, the following procedure will be followed. I will call out the name of each Commissioner. The Commissioner should there answer yes, no, or abstain. After the voting is concluded, I will read out how each of you have voted in order to insure that the tally is correct.
The first item on the agenda is the Approval of the Agenda. I move that we approve it. Is there a second?

COMMISSIONER HERIOT: Second.

CHAIRMAN REYNOLDS: Discussion? Well, actually, I'm going to move to amend it so that we can put Program Planning for the conference before our discussion of the State Advisory Committee issues.

COMMISSIONER HERIOT: Are you sure you want to do that?

COURT REPORTER: I'm sorry. This is the Court Reporter. Could I please ask you to identify yourself when you speak?

COMMISSIONER HERIOT: I'm Gail Heriot.

COURT REPORTER: Thank you very much.

CHAIRMAN REYNOLDS: Gail, here's the rationale. Right now we have a quorum, but if we lose one Commissioner, we can't conduct business.

COMMISSIONER HERIOT: That's my point. Is there actual business to conduct with Program Planning. You're authorized to do with it as you will at this point.

CHAIRMAN REYNOLDS: Yes. We have --
there's going to be a motion that would affect how we proceed.

COMMISSIONER HERIOT: Okay.

CHAIRMAN REYNOLDS: Okay.

COMMISSIONER HERIOT: That's certainly amendment of your own motion. And if you need a second for it, I'll give you a second on that.

CHAIRMAN REYNOLDS: Thank you. Do we need discussion? Okay. Commissioner Kirsanow, how do you vote?

COMMISSIONER KIRSANOW: Aye.

CHAIRMAN REYNOLDS: Commissioner Taylor.

COMMISSIONER TAYLOR: Aye.

CHAIRMAN REYNOLDS: Commissioner Heriot.

COMMISSIONER HERIOT: Aye.

CHAIRMAN REYNOLDS: Commissioner Gaziano.

COMMISSIONER GAZIANO: Yes.

CHAIRMAN REYNOLDS: And I vote in the affirmative, also. The vote was unanimous.

Okay. Next up. Mr. Staff Director, please provide us with your report.
STAFF DIRECTOR DANNENFELSER: Thank you, Mr. Chairman. At this time, I want to provide an update on the status of the building improvements that have been taking place at headquarters. The carpet has been installed in the interior offices throughout the seventh floor, and the public corridors on the seventh floor are in the process of being treated, and they're scheduled for carpeting and painting on Tuesday, September 8th. The contractors on the fifth floor as of Tuesday, September 1st, in Suite 510. All employee offices will be completed, and then the contractor will go to the file rooms, copy rooms, and so on. And that process was actually scheduled to be completed by the end of the day today.

The main conference room on the fifth floor is scheduled for work on September 16th. We'll have new shelving for the Commissioner and Staff Director photos installed. Currently, most of the photographs have been sealed to the walls, and we will have those sent out to be reframed. And we also are working on the process of signage relating to the name of the Commission and a seal that will be on the wall of the conference.
There’s a separate -- a different type of painting and carpeting that will be in the fifth floor conference room than throughout the other parts of the building.

The installation of painting and carpeting on the sixth floor is anticipated to take place between September 10th and 14th. And the entire project is expected to be completed by Saturday, September 19th. And we have rented a whole bunch of these heavy duty plastic boxes that people have been using, and we're recycling them as people get in and unload them. And we also have employed the services of some movers to help with some of the heavy duty things that are stored in some closets and file rooms, and also to help some of the staff with some of the heavier objects that they have. But, so far, the process seems to be going pretty smoothly.

COMMISSIONER YAKI: Hello.
CHAIRMAN REYNOLDS: Hello. Is that Commissioner Gaziano?

COMMISSIONER YAKI: No, it's Commissioner Yaki.

CHAIRMAN REYNOLDS: Oh, very good.
Okay. Commissioner Yaki has joined us.
COMMISSIONER MELENDEZ: Commissioner Melendez here.

CHAIRMAN REYNOLDS: Okay. Very good.

COMMISSIONER MELENDEZ: I'm going to be limited on my participation. I'm in another conference in Sparks, Nevada, but I'll be on for a while.

CHAIRMAN REYNOLDS: Okay. Very good.

COMMISSIONER MELENDEZ: Okay.

CHAIRMAN REYNOLDS: Any questions or comments to the Staff Director?

COMMISSIONER HERIOT: No.

COMMISSIONER MELENDEZ: Yes, I do. This is Commissioner Melendez. I would, at some point, still like to -- maybe at the next meeting, the face-to-face meeting, like to have a full report on our financial position for the fiscal year. I'm still waiting to see where we are as far as whether or not we have surplus leftover like we usually do, and where we are with the -- going into 2010. So, hopefully, we can have the Staff Director give a full financial report at the next meeting on the 11th.

CHAIRMAN REYNOLDS: Okay. Marty, please put that on the agenda.
STAFF DIRECTOR DANNENFELSER: Okay.

COMMISSIONER MELENDEZ: Thank you.

CHAIRMAN REYNOLDS: Any other comments or questions?

Okay. On August 19th, my assistant sent out an email on my behalf notifying you that the National Conference on Civil Rights would be postponed from the originally planned date of October 3rd. The decision was arrived at as a result of conversations that I've had with Commissioner Taylor, aided by Commissioner Kirsanow. They have persuaded me, against my better judgment, that we should revisit the idea of enlisting a Subcommittee to work on the National Conference.

This conference is important, and long overdue, and I was quite pleased with the enthusiasm expressed by many of the people that I spoke with. So, in any event, the convening of a Subcommittee at this juncture, in my view, is a step back, but I hope that this suggestion will help us secure meaningful contributions from those Commissioners who felt that they did not have an opportunity to make adequate suggestions in response to the Concept Paper that was circulated.
The same rules should apply to the Subcommittee that applied when I solicited suggestions and edits to my Concept Paper from Commissioners that has every aspect of the conference, from the theme, to content, to suggested speakers would be open to discussion.

That said, a significant amount of thought, time, and effort went into the preparation of the Concept Paper. I would encourage the Subcommittee to use it as a starting point for its deliberation. The date and venue are also up for debate, but I feel strongly that our target date for the conference should not go beyond late March, or, actually, shouldn't go beyond mid-April of 2010. And that we should still hold the event at the National Press Club.

My assistant, Ms. Ludvigson, has contacted the Press Club to assess the availability, and there are still a number of dates open within the time frame that might suit our purposes. It is imperative that the Subcommittee begin its work right away, if we are to nail down a firm date for the event where the venue can accommodate us.
The other item that is not open to much debate, I hope, is the budget for the event. The budget should stay around $100,000. There are savings realized by purchasing certain items this fiscal year that were originally scheduled to be purchased in the next fiscal year. And, also, due to some staff attrition, we can fully support the shifting of the conference to the new fiscal year.

So, I move that the Commission appoint a three-person committee consisting of Commissioners Yaki, Kirsanow, and Taylor, to meet over the next two months at intervals they determine via teleconference to make recommendations regarding the National Conference. Under this motion, the Subcommittee is to report on its progress to the Commission during Commission business meetings, and be prepared to present its recommendation to the Full Commission for a vote at an in-person Commission meeting that's scheduled for November 6th, 2009, giving the panel, the Subcommittee, approximately two months to do its work. Is there a second?

COMMISSIONER HERIOT: Second.

CHAIRMAN REYNOLDS: Discussion?
COMMISSIONER GAZIANO: I'd like to hear maybe two points elaborated a little bit. First of all, Commissioner Yaki, if he wouldn't mind saying, are you willing to serve, and how does this suit you?

CHAIRMAN REYNOLDS: Commissioner Yaki, are you still on?

COMMISSIONER YAKI: I am.

COMMISSIONER GAZIANO: Commissioner Yaki, I asked if you were able to attend to the Chairman's proposal that you serve on a Subcommittee, whether you're willing to serve, and how that proposal suits you.

COMMISSIONER YAKI: Did I vote for it?

COMMISSIONER GAZIANO: What's that?

COMMISSIONER YAKI: Did I object to it?

COMMISSIONER GAZIANO: How does it -- are you willing to serve?

COMMISSIONER YAKI: Did I object to the vote? No.

CHAIRMAN REYNOLDS: We haven't gotten around to voting yet.

COMMISSIONER HERIOT: The question is
do you want to serve on the Committee.

COMMISSIONER GAZIANO: Well, that may serve as a basis of whether I should vote for this particular Subcommittee, is whether the individuals on the call, but particularly you, since you suggested there was a lack of input, think that this is satisfactory.

COMMISSIONER YAKI: Well, I think that the process being restarted is satisfactory. I think that the appointment of a Subcommittee is a step in the right direction. Where it goes from there, I can't possibly say, but I will serve.

CHAIRMAN REYNOLDS: Very good. Let's vote. Commissioner Kirsanow, how do you vote?

COMMISSIONER YAKI: I don't know what the heck you were looking for, Commissioner Gaziano, and Commissioner Heriot. I don't understand why you keep on giggling, but whatever.

CHAIRMAN REYNOLDS: Commissioner Kirsanow.

COMMISSIONER KIRSANOW: Aye.

CHAIRMAN REYNOLDS: Commissioner Yaki.

COMMISSIONER YAKI: Did you say Commissioner Yaki?
CHAIRMAN REYNOLDS: Yes.
COMMISSIONER YAKI: Yes.

CHAIRMAN REYNOLDS: Commissioner Melendez.
COMMISSIONER MELENDEZ: Aye.

CHAIRMAN REYNOLDS: Commissioner Taylor.
COMMISSIONER TAYLOR: Aye.

CHAIRMAN REYNOLDS: Commissioner Heriot.
COMMISSIONER HERIOT: Aye.

CHAIRMAN REYNOLDS: Commissioner Gaziano.
COMMISSIONER GAZIANO: Aye.

CHAIRMAN REYNOLDS: Okay. The vote is unanimous.

Next up, your meeting materials contain packages recommending the re-charters of Arizona, Hawaii, Michigan, Utah, Indiana, Nebraska, and South Dakota Advisory Committees. Recommended Advisory Committee Members were selected in compliance with the State Advisory Committee Membership Selection Guidelines specified in A.I.6-9, Section 7, following the Lean Six Sigma process approved by the Commission.
in January of 2008. Commission Staff reached out to the Commissioners, current SAC members, and the Congressional Delegations for the corresponding states, and other officials.

I move that the Commission re-charter the Arizona State Advisory Committee. Under this motion, the Commission appoints the following individuals to that Committee, based on the recommendation of the Staff Director, Clint Bolick, Blanca Esparza, Lawrence Gallagher, Keli Luther, Andrea Martinez, Jose Matus, James McKenzie, Catherine Medina, Vernon Parker, Thomas Patterson, and Franklin Taylor. Pursuant to this motion, the Commission appoints Thomas Patterson as Chair of this re-chartered Arizona State Advisory Committee. These members will serve as uncompensated government employees. Under this motion, the Commission also authorizes the Staff Director to execute the appropriate paperwork for the appointment. Is there a second?

COMMISSIONER HERIOT: Second.

CHAIRMAN REYNOLDS: Discussion?

STAFF DIRECTOR DANNENFELSER: Mr. Chairman, just a technical correction. On Mr. Taylor, I believe it should be Frederick Taylor.
CHAIRMAN REYNOLDS: What did I say?

STAFF DIRECTOR DANNENFELSER: I think, Franklin.

CHAIRMAN REYNOLDS: Okay. Thank you for the correction.

COMMISSIONER YAKI: Okay.

CHAIRMAN REYNOLDS: Okay. All in favor, please say -- I'm sorry.

COMMISSIONER MELENDEZ: I have a question.

CHAIRMAN REYNOLDS: Yes?

COMMISSIONER MELENDEZ: Commissioner Melendez here. As far as the Lean Sigma process, are we kind of shortcutting that, if -- I know that in the cover letter, the Staff Director had said something about that he was targeting certain areas that limited, or targeted outreach; meaning that, if, for some reason, we weren't considering replacement of a full board, that if there were only two or three vacancies, are we saying that we kind of shortcut the Lean Sigma Six by just going out to a few outreach areas, rather than fully going out to a broader range of seeking individuals? Just talking about the process of Lean Sigma Six, and whether or not a few people
being appointed is a small outreach.

CHAIRMAN REYNOLDS: Staff Director?

STAFF DIRECTOR DANNENFELSER: This is the Staff Director. There was a memo that I sent out to Commissioners in August of 2008, when there were some questions about the process. And I did point to certain instances when the outreach might be more limited, and there were a few examples for Florida, Kentucky, and North Carolina provided at that time, when there was a large number of returning members. In the case of Arizona that we're now considering, even though there were 10 returning members, we did do a considerable amount of outreach, which was detailed in the memo that was sent to Commissioners on July 23rd. I could read some of those organizations, if you like, but it is a pretty extensive list.

COMMISSIONER MELENDEZ: Okay. But my question is, if there's only a few people we're replacing, are we -- is it not as broad as if we were replacing eight or ten people?

STAFF DIRECTOR DANNENFELSER: There are times when it's not as broad, when you have a situation where you might have a large number of members of one particular party, who might not be
coming back, a disproportionate number from one
party that might not be coming back, as opposed to
the other. So, in terms of the outreach in a
situation like that, there might be somewhat more
targeted towards the party, or the philosophical
part of the spectrum that might be under-
represented.

COMMISSIONER MELENDEZ: All right.

Thank you.

CHAIRMAN REYNOLDS: Okay. Someone
please remind me where we are.

COMMISSIONER YAKI: Arizona.

COMMISSIONER HERIOT: We're on
Arizona, yes.

CHAIRMAN REYNOLDS: Okay. Well, what
I meant was, have we voted?

COMMISSIONER HERIOT: No, we have not
voted.

CHAIRMAN REYNOLDS: Okay. Commissioner
Kirsanow, how do you vote?

COMMISSIONER KIRSANOW: Aye.

CHAIRMAN REYNOLDS: Commissioner
Yaki.

COMMISSIONER YAKI: No.

CHAIRMAN REYNOLDS: Commissioner
COMMISSIONER MELENDEZ: Abstain.

CHAIRMAN REYNOLDS: Commissioner Taylor.

COMMISSIONER TAYLOR: Aye.

CHAIRMAN REYNOLDS: Commissioner Heriot.

COMMISSIONER HERIOT: Aye.

CHAIRMAN REYNOLDS: Commissioner Gaziano.

COMMISSIONER GAZIANO: Aye.

CHAIRMAN REYNOLDS: Okay.

Commissioners Kirsanow, Taylor, Heriot, Gaziano, and myself voted in the affirmative. Commissioners Yaki -- I'm sorry, Commissioner Yaki voted against the motion, and Commissioner Melendez abstained. The motion passes.

Next up is the Hawaii State Advisory Committee. I move that the Commission re-charter the Hawaii State Advisory Committee. Under this motion, the Commission appoints the following individuals to that Committee based on the recommendations of the Staff Director, Amy Agbayani, Robert Alm, Daphne Barbee-Wooten, William Burgess, Vernon Char, Linda Colburn,
Michelle Nalani Fujimori, Bruss Keppeler, and James Isamu Kuroiwa. I apologize for mangling pronunciations. And, also, Michael Lilly, Carmen Lindsey, Thomas MacDonald, Paul Smith, Wayne Tanna, and Jacqueline Eurn Hai Young. Pursuant to this motion, the Commission appoints Michael Lilly as Chair of the re-chartered Hawaii State Advisory Committee. These members will serve as uncompensated government employees. Under this motion, the Commission also authorizes the Staff Director to execute the appropriate paperwork for the appointments. Is there a second?

COMMISSIONER GAZIANO: I like to offer a substitute motion, if you wouldn't mind? I'd like to severe consideration of Ms. Barbee-Wooten, and discuss, and potentially vote on her separately. So, I'd like to proceed with the rest of the slate.

CHAIRMAN REYNOLDS: I accept that as a friendly amendment.

COMMISSIONER YAKI: I move to sever William Burgess for the same reason.

CHAIRMAN REYNOLDS: I accept that as a friendly motion, also.

Okay. So, with those adjustments -
COMMISSIONER HERIOT: You still need a second, don't you?

CHAIRMAN REYNOLDS: Would you kindly provide it?

COMMISSIONER HERIOT: Yes. Second.

CHAIRMAN REYNOLDS: Okay. We are now voting on the individuals that I just mentioned with the exception of Burgess and Wooten, who would be voted on separately. Any discussion?

COMMISSIONER MELENDEZ: Commissioner Melendez. I would make a motion to keep it as it is, because all we're doing is -- it's a wider---

COMMISSIONER HERIOT: But that's out of order.

CHAIRMAN REYNOLDS: Okay. Is there a second for Commissioner Melendez' -- is there any support for his motion?

COMMISSIONER GAZIANO: I suppose that's just an argument to defeat our -- well, never mind. Go ahead.

CHAIRMAN REYNOLDS: Is there support for Commissioner Melendez' suggestion? Okay. Hearing none, Commissioner Kirsanow, how do you vote?

COMMISSIONER KIRSANOW: Aye.
CHAIRMAN REYNOLDS: Commissioner Yaki.

COMMISSIONER YAKI: Abstain.

CHAIRMAN REYNOLDS: Commissioner Melendez.

COMMISSIONER MELENDEZ: Abstain.

CHAIRMAN REYNOLDS: Commissioner Taylor. Commissioner Taylor? Commissioner Heriot?

COMMISSIONER HERIOT: Aye.

CHAIRMAN REYNOLDS: Commissioner Gaziano.

COMMISSIONER GAZIANO: Aye.

COMMISSIONER TAYLOR: Did you get the Taylor aye, by the way?

CHAIRMAN REYNOLDS: No, I did not.

COMMISSIONER TAYLOR: Okay.

CHAIRMAN REYNOLDS: Okay.

Commissioners Kirsanow, Taylor, Heriot, Gaziano, and myself voted in the affirmative. Commissioners Yaki and Melendez voted -- well, abstained. The motion passes.

Next up, let's discuss Ms. Wooten.

COMMISSIONER GAZIANO: I'd be glad to tell you why I wanted to sever. I've seen in four
or five news accounts that when the American Civil Liberties Union of Hawaii thought to invite Clarence Thomas to debate Nadine Strossen, that Ms. Barbee-Wooten said -- made some statements in opposition to inviting Justice Thomas that seem racially offensive. According to the newspaper reports, she wrote first in a letter, I believe, to the organization's First Amendment Subcommittee. She said, "Bringing Clarence Thomas sends a message that the Hawaii’s ACLU promotes and honors black Uncle Toms, who turn their backs on civil rights." I think even the inclusion of that term is, at best, racially offensive, the term "Uncle Tom". And, certainly, not a very accurate view of Clarence Thomas' views of jurisprudence.

Then, reportedly, at a meeting to discuss her objections, where others referred to Clarence Thomas as a Hitler, and she didn't object. Instead, she added that, "Among other reasons to oppose him is that he's married to a white person." So, she objects to interracial marriages, or perhaps this particular interracial marriage. It's unclear.

I would propose to -- at this point,
I would move to table her consideration indefinitely, unless she can establish that these news accounts are inaccurate, and that she never said such things.

CHAIRMAN REYNOLDS: Is there a second?

COMMISSIONER HERIOT: Second.

COMMISSIONER YAKI: I would amend this.

CHAIRMAN REYNOLDS: Are you offering a friendly amendment?

COMMISSIONER YAKI: Yes. I would just simply say just to disapprove her, period.

COMMISSIONER HERIOT: That seems unfair, if she didn't say these things.

COMMISSIONER YAKI: Well, I don't know why we need to table it. We just disapprove her.

COMMISSIONER HERIOT: But it's tabled indefinitely. She has to move forward and convince us, and that we can take it up again.

COMMISSIONER YAKI: Well, okay. Whatever you guys want to do.

CHAIRMAN REYNOLDS: Any other comments? Commissioner Kirsanow, how do you vote?
COMMISSIONER KIRSANOW: I'm sorry. I missed the last three minutes, because I had to take another call. I heard Commissioner Heriot at the end of it, something about tabling.

COMMISSIONER HERIOT: This will be tabling Ms. Barbee-Wooten until such time -- tabling her indefinitely until such time as she can show that the statements that were made out her statements are untrue.

COMMISSIONER GAZIANO: Aye. If the statements are true, I wouldn't support --

COMMISSIONER YAKI: Actually, I'd like to amend that again.

COMMISSIONER HERIOT: We're already voting, so I don't think you can do that.

COMMISSIONER YAKI: Sure. Why not?

COMMISSIONER HERIOT: Because it's out of order.

COMMISSIONER YAKI: Oh, come on, Gail. Would you just get a break sometimes.

CHAIRMAN REYNOLDS: Okay.

COMMISSIONER HERIOT: You're the one that didn't even call in until we had a quorum. Who should be giving whom a break?

COMMISSIONER YAKI: What are you
talking about? I was on the -- I've been on the road for three and a half hours out of cell phone range, Ms. Heriot, because I had to go to a meeting this morning over --

CHAIRMAN REYNOLDS: Commissioner Yaki.

COMMISSIONER YAKI: -- my vacation, starting at 6:00 this morning, so don't give me any crap about when I called in, when I --

CHAIRMAN REYNOLDS: Commissioner Yaki, please, take this up with Commissioner Heriot on your own time.

COMMISSIONER YAKI: She chooses to impugn my integrity with that remark. I'm not going to stand for it. She can make whatever stupid remarks, or giggle if she wants to do. The fact of the matter is, I called as soon as I got in the house, and could get my documents and binders out, as soon as I pulled in the driveway.

COMMISSIONER HERIOT: This is a pattern, Commissioner Yaki.

CHAIRMAN REYNOLDS: Okay, folks.

COMMISSIONER YAKI: How is there a pattern? Well, maybe it's a pattern that creates a disparate impact -- oh, no, you don't believe in...
that, so I don't know. I don't know how you can focus on that. The fact of the matter is, I was going to say, that if we are doing this, we should also, at the same time, instruct the Staff Director to select an alternate to ensure the appropriate balance on the Commission, should this person not be able to prove her case satisfactory to the Commission, or to whoever it is, which is yet unnamed in the motion.

COMMISSIONER GAZIANO: I suppose we could take that up after the vote to table her. But I think the -- personally, I think the -- let's see what happens on Mr. Burgess, as well, but I think the slate looks balanced without her.

COMMISSIONER YAKI: Well, that's your opinion, not mine.

CHAIRMAN REYNOLDS: Okay, folks. We can take that up as a separate issue. Commissioner Kirsanow, how do you vote?

COMMISSIONER KIRSANOW: Just to clarify the record, we are voting on the original motion to table. Correct?

COMMISSIONER HERIOT: Right.

COMMISSIONER KIRSANOW: I vote aye.

CHAIRMAN REYNOLDS: Commissioner
Yaki?

COMMISSIONER YAKI: Aye.

CHAIRMAN REYNOLDS: Commissioner Melendez.

COMMISSIONER MELENDEZ: Abstain.

CHAIRMAN REYNOLDS: Commissioner Taylor.

COMMISSIONER TAYLOR: Aye.

CHAIRMAN REYNOLDS: Commissioner Heriot.

COMMISSIONER HERIOT: Aye.

CHAIRMAN REYNOLDS: Commissioner Gaziano.

COMMISSIONER GAZIANO: Aye.

CHAIRMAN REYNOLDS: Okay. We have one abstention from Commissioner Melendez. The remaining Commissioners voted in favor. The motion carries.

Next up -

COMMISSIONER YAKI: I move that we ask the Staff Director to propose an alternate to replace Ms. Wooten, should she not prove up her case.

CHAIRMAN REYNOLDS: Should she not prove up her case?
Well, should we -

COMMISSIONER HERIOT: Shouldn't we wait to find out whether she does prove her case?

COMMISSIONER YAKI: I think we should have an alternate -

COMMISSIONER HERIOT: You got to give her some time.

COMMISSIONER YAKI: Well, how much time do you want to give her? You didn't specify that.

CHAIRMAN REYNOLDS: Well, why don't you make the motion -

COMMISSIONER HERIOT: Put it on a future agenda.

CHAIRMAN REYNOLDS: Look, let's put this on the next -- the agenda for the next meeting.

COMMISSIONER HERIOT: You've got to give her more time than two weeks.

CHAIRMAN REYNOLDS: Okay. Put it on October's agenda.

CHAIRMAN REYNOLDS: All right. That's fine.

Next up, Mr. Burgess. Commissioner Yaki?
COMMISSIONER YAKI: Yes. I would just like to state that I have an objection to Mr. Burgess, because his one and only warranting concern that has been enunciated already, was not carried by a majority of the Commission. I'm not too sure what further contributions he can make, given that his sole focus is on the Native Hawaiian Sovereignty Act.

CHAIRMAN REYNOLDS: Do you believe that that issue is settled?

COMMISSIONER YAKI: I believe that he has made his point. And, as far as other issues to be taken up by the Hawaiian State, allegedly, I don't believe he would be interested, or add to it.

COMMISSIONER HERIOT: Call the question.

COMMISSIONER GAZIANO: Let me just state, from what I know of Mr. Burgess' efforts, they are honorable, and admirable. And he donates a lot of his time for the right causes.

COMMISSIONER YAKI: Well, I'm glad you think that way Todd. I don't.

COMMISSIONER HERIOT: Call the question.
CHAIRMAN REYNOLDS: Okay.

Commissioner Kirsanow.

COMMISSIONER GAZIANO: The motion is to -- I didn't know there was a specific motion. Do you want to strike, kill, approve?

COMMISSIONER YAKI: Disapprove.

COMMISSIONER KIRSANOW: Okay.

CHAIRMAN REYNOLDS: Commissioner Kirsanow.

COMMISSIONER KIRSANOW: No.

CHAIRMAN REYNOLDS: Commissioner Yaki.

COMMISSIONER YAKI: Aye.

CHAIRMAN REYNOLDS: Commissioner Melendez.

COMMISSIONER MELENDEZ: Yes.

CHAIRMAN REYNOLDS: Commissioner Taylor.

COMMISSIONER TAYLOR: No.

CHAIRMAN REYNOLDS: Commissioner Heriot.

COMMISSIONER HERIOT: No.

CHAIRMAN REYNOLDS: Commissioner Gaziano.

COMMISSIONER GAZIANO: No.
CHAIRMAN REYNOLDS: Okay.

Commissioners Yaki and Melendez -

COMMISSIONER HERIOT: Wait. The problem is, we just voted not to disapprove him. You have to actually approve. I move to approve him.

COMMISSIONER GAZIANO: Second.

CHAIRMAN REYNOLDS: We don't need discussion? Commissioner Kirsanow, how do you vote?

COMMISSIONER KIRSANOW: Aye.

CHAIRMAN REYNOLDS: Commissioner Yaki.

COMMISSIONER YAKI: No.

CHAIRMAN REYNOLDS: Commissioner Melendez.

COMMISSIONER MELENDEZ: No.

CHAIRMAN REYNOLDS: Commissioner Taylor.

COMMISSIONER TAYLOR: This is to approve him. Correct?

COMMISSIONER HERIOT: Yes.

CHAIRMAN REYNOLDS: Yes.

COMMISSIONER TAYLOR: Yes.

CHAIRMAN REYNOLDS: Commissioner
Heriot.

COMMISSIONER HERIOT: Yes.

CHAIRMAN REYNOLDS: Okay. We have two votes -

COMMISSIONER GAZIANO: And Gaziano, yes.

CHAIRMAN REYNOLDS: Oh, sorry about that.

COMMISSIONER HERIOT: Poor guy.

CHAIRMAN REYNOLDS: Okay. We have two votes from Commissioners Yaki and Melendez voting against the motion. The remaining Commissioners voted in favor. The motion carries.

Now, let's jump back. Let the record reflect that Commissioner Yaki and Melendez voted not to have Mr. Burgess reappointed. The remaining Commissioners voted the other way.

Okay. Next up is the Michigan State Advisory Committee. Now, I move that the Commission re-charter the Michigan State SAC. Under this motion, the Commission appoints the following individuals to that Committee based on the recommendations of the Staff Director, Lawrence Almeda, Wendell Anthony, Donna Budnick, James Fett, Imad Hamad, Joyce Herron-Taylor,
Jayashree Kammareddi, Sarah Prescott, Howard Schwartz, Arthur White, Levon Yuille, and Gerald Zandstra. Pursuant to the motion, the Commission appoints Lawrence Almeda as the Chair of the re-chartered Michigan SAC. These members will serve as uncompensated government employees. Under this motion, the Staff Director is also authorized to execute the necessary paperwork for the appointment. Is there a second?

COMMISSIONER HERIOT: Second.

CHAIRMAN REYNOLDS: Discussion?

COMMISSIONER MELENDEZ: Yes.

Commissioner Melendez here. There was -- I guess a question would be to the Staff Director, the regional staff had made a recommendation on a certain lady, and I'm not sure if I should say her name, that had pretty good background in criminal justice. And that's one of our mandates, is to explore discrimination and administrative injustice. And I believe we may have replaced that person with a number of charter school-type people, when we already have, I think, a couple of professors that are on this board. So, I just wanted to know why we would exclude a qualified woman, who would have been the only person on this
board that would really be -- may look into administrative of justice, as well as race, and gender, and that type of thing. Can I get an explanation on that, because she seemed like she was pretty qualified, and she was replaced.

CHAIRMAN REYNOLDS: Well, before the Staff Director responds, Commissioner Melendez, it's not uncommon for the Commission to have an over-subscription problem, where we just have an abundance of highly qualified people. And, in those instances, we have to turn qualified people away. It's no reflection on them. But, in any event, Staff Director, would you care to respond?

STAFF DIRECTOR DANNENFELSER: Well, I'm looking at the list. I see at least four attorneys of the remaining people on there. Just, in general, it's balanced both in terms of the backgrounds of the people, and the overall party affiliation, and philosophical makeup of the Commission. And I think we do generally accept most of the recommendations from the regional offices, but it's not automatic. And just as we've had discussions in the past, there are times even when the Commissioners might nominate candidates, and that's something we have to take
into account, as far as the overall balance of the Committee, as well. So, I think it was just a matter of trying to find the appropriate balance on the Committee, and not any negative view towards any particular individual. And this might be someone that we could consider if vacancies occur, or during the next re-chartering of the Committee.

COMMISSIONER MELENDEZ: Right now, though, is there an imbalance as far as men to women. I thought it was, with excluding this lady, now we end up with eight men to four women.

STAFF DIRECTOR DANNENFELSER: Well, again, there were a number of different people who were recommended. There were men who were recommended, as well, that were not included on the Committee. So, I think, again, it was more an overall balance in terms of the vigorous debate that could be provided by the Committee through the balance of philosophical perspectives.

COMMISSIONER MELENDEZ: Well, I think this is really imbalanced, so I just want to let you know that I think we should have this lady on there, as far as somebody in that sector where
there's nobody else there. And we have overloaded
the sector on education with three people, and
we've got more than enough there, and that it
creates an imbalance on the gender. I'm just
saying it doesn't look very good to me. Thank
you.

CHAIRMAN REYNOLDS: Commissioner
Kirsanow, how do you vote?

COMMISSIONER KIRSANOW: Abstain.

CHAIRMAN REYNOLDS: Commissioner
Yaki.

COMMISSIONER YAKI: Abstain.

CHAIRMAN REYNOLDS: Commissioner
Melendez.

COMMISSIONER MELENDEZ: This is
Michigan. Right? Is that what we're voting on?

CHAIRMAN REYNOLDS: Yes.

COMMISSIONER MELENDEZ: Yes, I vote
against.

CHAIRMAN REYNOLDS: Commissioner
Taylor.

COMMISSIONER TAYLOR: Aye.

CHAIRMAN REYNOLDS: Commissioner
Heriot.

COMMISSIONER HERIOT: Aye.
CHAIRMAN REYNOLDS: Commissioner Gaziano.

COMMISSIONER GAZIANO: Aye.

CHAIRMAN REYNOLDS: Okay. We have two abstentions, one from Commissioner Kirsanow, the other from Commissioner Yaki. Commissioner Melendez voted against the motion. The remaining Commissioners voted for it. The motion passes.

Next up is the Utah State Advisory Committee. I move that the Commission re-charter the Utah State Advisory Committee. Under the motion, the following individuals would serve, Chyleen Arbon, Glenn Bailey, William Coleman, Virginius Dabney, Marco Diaz, Michael Homer, Robyn Kaelin, Daniel Levin, Edward Lewis, Rosa Maria Martinez, Joanne Milner, David Parker, Betty Sawyer, and Filia Uipi. Pursuant to the motion, the Commission appoints Ms. Milner as the Chair of the re-chartered State Advisory Committee. These individuals will serve as uncompensated government employees. And as is always the case, this motion authorizes the Staff Director to execute the needed paperwork. Is there a second?

COMMISSIONER MELENDEZ: Second.

CHAIRMAN REYNOLDS: Discussion?
Commissioner Kirsanow, how do you vote?

COMMISSIONER KIRSANOW: Aye.

CHAIRMAN REYNOLDS: Commissioner Yaki.

COMMISSIONER YAKI: Abstain.

CHAIRMAN REYNOLDS: Commissioner Melendez.

COMMISSIONER MELENDEZ: I'll vote for it, approve.

CHAIRMAN REYNOLDS: Commissioner Taylor.

COMMISSIONER TAYLOR: Aye.

CHAIRMAN REYNOLDS: Commissioner Heriot.

COMMISSIONER HERIOT: Aye.

CHAIRMAN REYNOLDS: Commissioner Gaziano.

COMMISSIONER GAZIANO: Aye.

CHAIRMAN REYNOLDS: Okay. We have one abstention, that was made by Commissioner Yaki. The remaining Commissioners voted in the affirmative. The motion passes.

Next up, Indiana. I move that the following individuals be appointed to the Indiana State Advisory Committee, Gerard Bradley, Amos
Brown, Teri Nelson Cardwell, Elizabeth Cierzniak, Stephanie DeKemper, Morella Dominguez, Christopher Douglas, Robert Enlow, Susan Fuldauer, Leslie Hiner, Jeffery Kimmell, Tony Kirkland, Patti O'Callaghan, and Catherine Zuckert. Pursuant to this motion, the Commission appoints Tony Kirkland as Chair. These members will serve as uncompensated government employees. And yes, the Staff Director is authorized to execute the necessary paperwork. Is there a second?

COMMISSIONER HERIOT: Second.

CHAIRMAN REYNOLDS: Discussion?

COMMISSIONER YAKI: Commissioner Melendez here. There's -- of the 14 members, there's two that are associated with the Friedman Foundation for Educational Choice. One is the President of the organization, and the other is the Director of Programs. And my question would be, how does having two people on this single issue advocacy organization help the ideological diversity of the SAC? I mean, when we think -- it seems to me we should just have one person representing an organization like that.

COMMISSIONER HERIOT: They're not actually representing the organization, you know.
COMMISSIONER YAKI: I know, but -

COMMISSIONER HERIOT: It just happens to be where they work. They have a diverse interest in issues, I would think.

CHAIRMAN REYNOLDS: And as demonstrated by our exchanges, just because we belong to a particular organization, or political party, that doesn't necessarily mean that we agree on the issues.

COMMISSIONER YAKI: This is a particular organization. It has a particular point -- this is not a political party. This is a specific job function, which two people from the same job function are put on the same SAC. That, to me, sincerely begs the question of how good was the outreach that we had to find two people who work in the same place to fill the slots.

CHAIRMAN REYNOLDS: As I said, I don't believe that -- I don't presume that because an individual works, or belongs to particular organizations that all the members think alike, that they agree on the approach, their important nuances.

COMMISSIONER MELENDEZ: Do we appoint
people who have the exact same point of view on a
particular issue, on a civil rights issue. We are
saying that oh, but, on the other hand, we believe
that maybe there are some other issues that they
also have some interest about that would give them
the diversity that we need. I think that's just
really stretching it, Mr. Chair.

CHAIRMAN REYNOLDS: Well, I don't
believe that -

COMMISSIONER MELENDEZ: All the
people from the Anti-Hawaiian, Anti-Native
Sovereignty movement being appointed to the
Hawaiian SAC, is that somehow they're going to
bring other issues that they care about, when it's
very clear that they do not. So, I just think
that, once again, these SACs continue to be
unrepresentative, stacked, and poorly put together
in a way that truly finds any balance, or any
voice for the people for whom we are supposed to
be working on behalf of.

CHAIRMAN REYNOLDS: So, if I
understand you right, if we have two members of
the NAACP Legal Defense Fund on a SAC, that that,
in and of itself, would prevent the SAC from
having -- from being balanced in terms of
viewpoint.

COMMISSIONER YAKI: I think that if we can't do a better job of finding people from diverse organizations and backgrounds, then I think the presumption to be overcome is yes.

CHAIRMAN REYNOLDS: All right.

Commissioner Kirsanow, how do you vote?

COMMISSIONER KIRSANOW: Yes.

CHAIRMAN REYNOLDS: Commissioner Yaki.

COMMISSIONER YAKI: No.

CHAIRMAN REYNOLDS: Commissioner Melendez.

COMMISSIONER MELENDEZ: No.

CHAIRMAN REYNOLDS: Commissioner Taylor.

COMMISSIONER TAYLOR: Abstain.

CHAIRMAN REYNOLDS: Commissioner Heriot.

COMMISSIONER HERIOT: Yes.

CHAIRMAN REYNOLDS: Commissioner Gaziano.

COMMISSIONER GAZIANO: Yes.

CHAIRMAN REYNOLDS: Okay. We have one abstention from Commissioner Taylor. We have
two nos from Commissioners Yaki and Melendez. The remaining Commissioners voted in the affirmative. The motion passes.

Next up is Nebraska. I move that we re-charter the Nebraska SAC. Under this motion, the following individuals would be appointed based on the recommendation of the Staff Director, Michelle Baumert, Glenn Freeman, Edmund Hamann, William Harding, Rebecca Murray, Peter Longo, Cora Micek, Chad Richter, Jose Soto, Kimberley Riley-Taylor, and Kenneth Vampola. The Commission appoints Mr. Freeman as the Chair. The members will serve as uncompensated government employees. Under the motion, the Staff Director is authorized to execute the necessary paperwork. Is there a second?

COMMISSIONER GAZIANO: Second.
CHAIRMAN REYNOLDS: Discussion?
COMMISSIONER MELENDEZ: Commissioner Melendez. This one person, I believe it's Micek, I'm not sure of her demonstrated interest in civil rights, as I went through this. Could the Staff Director explain how she is on the SAC?

STAFF DIRECTOR DANNENFELSER: I have to find some information about her. She is a
returning member, so that was someone who was
selected previously, and has the presumption of
reappointment, unless there is an objection to
that person.

COMMISSIONER MELENDEZ: Okay. All
right. That's all I had. I was just wondering if
she was a new person. And you say she's
returning. Okay. Thank you.

CHAIRMAN REYNOLDS: Commissioner
Kirsanow, how do you vote?

COMMISSIONER KIRSANOW: Aye.

CHAIRMAN REYNOLDS: Commissioner
Yaki.

COMMISSIONER YAKI: What?

CHAIRMAN REYNOLDS: How do you vote?

COMMISSIONER YAKI: Yes.

CHAIRMAN REYNOLDS: Commissioner
Melendez.

COMMISSIONER MELENDEZ: Yes.

CHAIRMAN REYNOLDS: Commissioner
Taylor.

COMMISSIONER TAYLOR: Yes.

CHAIRMAN REYNOLDS: Commissioner
Heriot.

COMMISSIONER HERIOT: Yes. But I'm
not sure that I understood Commissioner Yaki's vote there.

CHAIRMAN REYNOLDS: I believe he voted in the affirmative.

COMMISSIONER YAKI: Actually, that's not true.

CHAIRMAN REYNOLDS: Okay.

COMMISSIONER YAKI: My vote is no.

CHAIRMAN REYNOLDS: Okay. Good catch, Commissioner Heriot.

COMMISSIONER HERIOT: I think he said guess, instead of yes. Okay. That's -

CHAIRMAN REYNOLDS: Okay.

Commissioner Gaziano.

COMMISSIONER GAZIANO: Yes.

CHAIRMAN REYNOLDS: Now, I'm worrying. Was that yes, or -

COMMISSIONER GAZIANO: That was an aye, yes.

CHAIRMAN REYNOLDS: Okay.

COMMISSIONER GAZIANO: Yea.

CHAIRMAN REYNOLDS: Commissioner Yaki voted against the motion. The remaining Commissioners voted in the affirmative, unless I got that wrong. The motion passes.
Next up is the South Dakota State Advisory Committee. I move that the Commission re-charter South Dakota State Advisory Committee. Under the motion, the Commission appoints the following individuals to serve based on recommendations of the Staff Director, Charles Abourezk, Alicia Alvarez, Richard Braunstein, Marcia Bunger, Joni Cutler, Scott German, Chris Hupke, and Arlouine Gay Kingman, Mike Levsen, Cassandra McKeown, Bernice Premack, Ronald Williamson, and Ira W. Taken Alive. Okay. Pursuant to the motion, Mr. Williamson would serve as Chair. These members serve as uncompensated government officials. The Staff Director is authorized to execute the necessary paperwork. Is there a second?

COMMISSIONER MELENDEZ: Second.

CHAIRMAN REYNOLDS: Discussion?

COMMISSIONER MELENDEZ: Commissioner Melendez. Just a comment. I just wanted to say that there are -- I'm pleased that there are some Native Americans on this in a heavily populated Native American state, so I just wanted to say I support this one.

CHAIRMAN REYNOLDS: Okay.
Commissioner Kirsanow, how do you vote?

COMMISSIONER KIRSANOW: Aye.

CHAIRMAN REYNOLDS: Commissioner

Yaki.

COMMISSIONER YAKI: Abstain.

CHAIRMAN REYNOLDS: I'm sorry?

COMMISSIONER YAKI: Abstain.

CHAIRMAN REYNOLDS: Commissioner

Melendez.

COMMISSIONER MELENDEZ: Yes.

CHAIRMAN REYNOLDS: Commissioner

Taylor.

COMMISSIONER TAYLOR: Yes.

CHAIRMAN REYNOLDS: Commissioner

Heriot?

COMMISSIONER HERIOT: Yes.

CHAIRMAN REYNOLDS: Commissioner

Gaziano.

COMMISSIONER GAZIANO: Yes.

CHAIRMAN REYNOLDS: Okay. One abstention from Commissioner Yaki. The remaining Commissioners voted in the affirmative. The motion passes.

Folks, we're done.

COMMISSIONER TAYLOR: I want more.
CHAIRMAN REYNOLDS: Okay. I see -

COMMISSIONER HERIOT: Me, too.

CHAIRMAN REYNOLDS: All right, folks, until we chat again.

(Whereupon, the proceedings went off the record at 12:39 p.m.)